

J. ROBERT WOOLEY

DOCKET NO. 499, 737 DIV D

VERSUS

19TH JUDICIAL DISTRICT COURT

PARISH OF EAST BATON ROUGE

THOMAS S. LUCKSINGER, ET AL

STATE OF LOUISIANA

SECOND AMENDING AND SUPPLEMENTAL PETITION

NOW INTO COURT, through undersigned counsel, comes plaintiff, J. Robert Wooley, Commissioner of Insurance for the State of Louisiana ("the Commissioner") in his capacity as Liquidator of AmCare Health Plans of Louisiana, Inc. ("AmCare"), a wholly owned subsidiary of AmCareCo, Inc. ("AmCareCo"), who requests leave of this Honorable Court to file the following Second Amending and Supplemental Petition:

The Commissioner amends Paragraph 1 of the original petition to add XL Specialty Insurance Company as a defendant as follows:

1.

Made defendants herein are the following:

- A. Thomas S. Lucksinger, an individual of full age of majority, domiciled in the State of Texas and upon information and belief, was doing business in the State of Louisiana as officer and/or director of AmCareCo, AmCare and /or AmCare Management Inc. ("AmCare Management");
- B. Michael D. Nadler, an individual of the full age of majority and upon information and belief, who is domiciled in the State of Texas and a resident of the State of Alabama, was doing business in the State of Louisiana as officer and/or director of AmCareCo, AmCare and /or AmCare Management;
- C. Stephen J. Nazarens, and individual of the full age of majority, domiciled in the State of Texas and upon information and belief, was doing business in the State of Louisiana as officer and/or director of AmCareCo, AmCare and/or AmCare Management;
- D. Scott Westbrook, an individual of full age of majority, domiciled in the State of Louisiana and upon information and belief, was doing business in the State of Louisiana as officer and/or director of AmCare;
- E. Michael K. Jhin, an individual of full age of majority, domiciled in the State of Texas and upon information and belief, was doing business in the State of Louisiana as officer and/or director of AmCareCo, AmCare and/or AmCare Management;
- F. William F. Galtney, an individual of full age of majority, domiciled in the State of Texas and upon information and belief, was doing business in the State of Louisiana as officer and/or director of AmCareCo, AmCare and/or AmCare Management;
- G. John P. Mudd, individual of full age of majority, domiciled in the State of Florida and upon information and belief, was doing business in the State of Louisiana as officer and/or director of AmCareCo, AmCare and/or AmCare Management;
- H. Executive Risk Indemnity, Inc., a foreign insurer doing business in the State of Louisiana, who issued a Diversified Health Care Organization Directors and Officers

Liability Insurance Policy Including Employment Practices Liability Coverage to its officers and directors of AmCareCo, AmCare and/or AmCare Management;

- I. Executive Risk Management Associates, a foreign entity, doing business in the State of Louisiana with Executive Risk Indemnity, Inc., who issued a Diversified Health Care Organization Directors and Officers Liability Insurance Policy Including Employment Practices Liability Coverage and also doing business with Executive Risk Specialty Insurance Company, who issued a Managed Care Organization Policy to its officers and directors of AmCareCo, AmCare and/or AmCare Management;
- J. Executive Risk Specialty Insurance Company, a foreign insurer, doing business in the State of Louisiana, who issued a Managed Care Organization Errors and Omissions Liability Insurance Policy to its officers and directors of AmCareCo, AmCare and/or AmCare Management;
- K. Executive Liability Underwriters, a foreign entity and upon information and belief, was doing business in the State of Louisiana with Greenwich Insurance Company, who issued a Management Liability and Company Reimbursement Policy to its officers and directors of AmCareCo, AmCare and/or AmCare Management; and
- L. Greenwich Insurance Company, a foreign insurer, doing business in the State of Louisiana, who issued a Management Liability and Company Reimbursement Policy to its officers and directors of AmCareCo, AmCare and/or AmCare Management;
- M. AmCareCo, Inc., a foreign business entity, doing business in the State of Louisiana, with officers and directors of AmCareCo, AmCare and/or AmCare Management.
- N. XL Specialty Insurance Company, a foreign insurer, doing business in the State of Louisiana, with Greenwich Insurance Company, who issued a Management Liability and Company Reimbursement Policy to its officers and directors of AmCareCo, AmCare and/or AmCare Management.

The Commissioner inserts new Paragraph 14-A of the original petition as follows:

14-A

XL Specialty Insurance Company acted on behalf of the insurers in procuring and issuing policies of insurance to the HMO, AmCareCo and AmCare Management, Inc. either on its own, through its agent Executive Liability Underwriters, or through a joint venture with either Executive Liability Underwriters and/or Greenwich Insurance Company.

The Commissioner inserts new Paragraph 14-B of the original petition as follows:

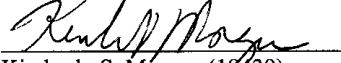
14-B

XL Specialty Insurance Company is solidarily liable with Executive Liability Underwriters and/or Greenwich Insurance Company as Executive Liability Insurance Underwriters acted as an agent or formed a joint venture with the aforesaid mentioned companies.

The Commissioner re-avers and re-alleges all of the allegations contained in Paragraphs 2-49 of the Original Petition and Paragraphs 1, 1-A, and 2 of the Amended Petition, as though copied herein *in extenso*.

WHEREFORE, J. Robert Wooley, Commissioner of Insurance for the State of Louisiana and Liquidator of the HMO, pray that the Amending and Supplemental Petition be served on defendants and that this Honorable Court will grant judgment in favor of plaintiff and against defendants, Thomas S. Lucksinger, Michael D. Nadler, Stephen J. Nazarenus, Scott Westbrook, John P. Mudd, Michael K. Jhin, Williams F. Galtney, John P. Mudd, Executive Risk Indemnity, Inc., Executive Risk Management Associates, Executive Risk Specialty Insurance Company, Executive Liability Underwriters, Greenwich Insurance Company, AmCareCo, Inc, and XL Specialty Insurance Company with prejudice and for the cost of all legal interest from the date of judicial demand and for all legal orders and decrees necessary in obtaining all general and equitable relief and for all relief sought in the Original Petition and the Amended Petition.

Respectfully Submitted:



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CLERK OF DIST. COURT
DOUG WELBORN

J. ROBERT WOOLEY

DOCKET NO. 499, 737 DIV D

VERSUS

19TH JUDICIAL DISTRICT COURT

THOMAS S. LUCKSINGER, ET AL

PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

 VERIFICATION

STATE OF LOUISIANA

PARISH OF EAST BATON ROUGE

BEFORE ME, the undersigned authority, duly commissioned and qualified within and for the State and Parish aforesaid personally came and appeared:

MARLON HARRISON

a person known by me, Notary Public, to be of lawful age and a resident of the Parish of Baton Rouge, Louisiana and who, after first being duly sworn by me, did depose and say:

That he is the Court-appointed Receiver for AmCare Health Plans of Louisiana, Inc., in Rehabilitation.

That he has read the foregoing Second Amending and Supplemental Petition and the allegations contained therein are true and correct to the best of his personal knowledge, information and belief.


MARLON HARRISON

CERTIFIED TRUE COPY

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SWORN TO AND SUBSCRIBED before me, this 30th day of October, 2003


NOTARY PUBLIC

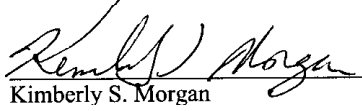
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 JUDICIAL DISTRICT COURT
 PARISH OF EAST BATON ROUGE
 STATE OF LOUISIANA

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading has been served on all known opposing counsels of record by either hand-delivering, faxing or mailing a copy of same via First Class United States Mail, postage prepaid and properly addressed, this 36th day of October, 2003, in Baton Rouge, Louisiana.


Kimberly S. Morgan

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063717

DEPUTY CLERK OF COURT

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BATON ROUGE, LA

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